

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

DATA CLOUD TECHNOLOGIES, LLC,

Plaintiff,

v.

EXTREME NETWORKS, INC.,

Defendant.

CIVIL ACTION NO. 1:20-cv-00764-LPS

Judge Leonard P. Stark

DATA CLOUD TECHNOLOGIES, LLC.’S OPPOSITION TO
DEFENDANT EXTREME NETWORKS, INC.’S MOTION TO DISMISS FOR FAILURE
TO STATE A CLAIM
[D.I. 13]

DATA CLOUD TECHNOLOGIES, LLC (hereinafter, “DataCloud” or “Plaintiff”) hereby opposes the “Motion To Dismiss For Failure To State A Claim” (D.I. 13, brief in support at D.I. 14) filed on October 30, 2020 by Defendant EXTREME NETWORKS, INC., (hereinafter, “Extreme” or “Defendant”) under Fed. R. Civ. Proc. 12(b)(6) (hereinafter, the “Motion”), because it has become moot with the filing of DataCloud’s First Amended Complaint (D.I. 17).

Under Third Circuit law, an amended complaint supersedes the original complaint filed, rendering it a nullity. *See West Run Student Housing Assocs., LLC v. Huntington Nat’l Bank*, 712 F.3d 165, 171 (3d Cir. 2013) (amended complaint generally moots motion to dismiss); *Snyder v. Pascack Valley Hosp.*, 303 F.3d 271, 276 (3d Cir. 2002) (“An amended complaint supercedes the original version in providing the blueprint for the future course of the lawsuit.”); *see also Calloway v. Green Tree Servicing, LLC*, 599 F.Supp.2d 543, 546 (D. Del. 2009) (denying motion to dismiss as moot because it was directed to superseded complaint).

Therefore, DataCloud requests that Defendant’s Motion to Dismiss (D.I. 13) be denied as moot.

Dated: November 13, 2020

Respectfully submitted,

Stamoulis & Weinblatt, LLC

/s/ Stamatios Stamoulis

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Attorneys for Plaintiff DataCloud Technologies, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the above document was filed using this Court's ECF System which caused it to be served by electronic mail upon the attorneys of record.

Dated: November 13, 2020

/s/ Stamatios Stamoulis
Stamatios Stamoulis (#4606)